

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

FEB 14 2001

IN RE:

VENTURI TECHNOLOGIES, INC.
Tax I.D. No. 87-0580279

Debtor.

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Michael N. Milby, Clerk

CASE NO. 01-31443-H4-11

INTERIM ORDER PURSUANT TO SECTION 364(c) OF THE BANKRUPTCY CODE
AND RULE 4001 OF THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE AUTHORIZING DEBTORS (1) TO OBTAIN INTERIM
POST-PETITION FINANCING, (2) GRANTING SENIOR AND JUNIOR LIENS
AND PRIORITY ADMINISTRATIVE EXPENSE STATUS AND (3) PRESCRIBING
FORM AND MANNER OF NOTICE AND TIME FOR FINAL HEARING UNDER
FEDERAL RULE OF BANKRUPTCY PROCEDURE 4001(c)

Came on for hearing, the Emergency Motion for Interim and Final Approval of Debtor in Possession Loan Agreement and the Granting of Post Petition Liens and Security Interests Pursuant to Bankruptcy Code section 364(c) (the "DIP Financing Motion") pursuant to 11 U.S.C. §§ 364(c) and Fed. R. Bankr. P. 4001(c), filed by Venturi Technologies, Inc. ("Venturi" or "Debtor") as Debtor and Debtor-in-Possession, seeking, inter alia:

a. authority, pursuant to Sections 364(c) of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for Debtor to obtain post-petition loans, advances and other financial accommodations of up to the aggregate outstanding amount of \$2,000,000 (the "DIP Facility") on a final basis with approximately \$110,000 on an interim basis pursuant to the terms and conditions set forth in the Debtor in Possession Loan Agreement ("the DIP Agreement") by and between Venturi and MJM Services, LLP, BER Investments, Ltd., Beaulieu of

America, Inc., Entrepreneurial Investors, Ltd. and Greenwich AG (collectively, the "DIP Lenders"), substantially in the form annexed as Exhibit "A", secured by first priority security interests in and liens upon all of the Collateral (as hereinafter defined) pursuant to Sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code; provided, however, that the DIP Lenders shall receive a second lien junior to the lien of Compass Bank on the account receivable;

b. authority for Venturi to enter into and execute the DIP Agreement, together with all other related agreements, documents and instruments referred to in the DIP Agreement;

c. the granting to the DIP Lenders super-priority administrative claim status pursuant to Section 364(c)(1) of the Bankruptcy Code over any and all other administrative expenses of the kind specified in section 503(b) or 507(b), including chapter 7 administrative expenses, if any; and

d. the setting of a final hearing on the Motion.

Pursuant to the pleadings, evidence and arguments of counsel,

THE COURT FINDS THAT:

A. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion constitutes a "core proceeding" as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), (G), (K), (M) and (O).

B. Venturi filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on February 12, 2001 (the "Petition Date") and is continuing in the management and possession of its business and properties as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. Venturi has provided actual notice of the Motion and the relief requested thereunder, the Interim Hearing and the terms of this Order, by telecopy, overnight courier or by-hand delivery to (a) the Office of the United States Trustee, (b) the attorneys for the DIP Lenders, (c) the twenty (20) largest unsecured creditors of Venturi, (d) counsel for Compass Bank and (e) all other creditors known to the Venturi to possess liens against Venturi's assets.

D. Without the financing proposed by the Motion, Venturi will not have the funds necessary to continue the operation of Venturi's business and the management and preservation of Venturi's assets and properties.

E. Venturi is unable to obtain unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code, or pursuant to Sections 364(a) and (b) of the Bankruptcy Code.

F. No other source of financing exists on terms more favorable than those offered by DIP Lenders.

G. Venturi has requested that DIP Lenders make loans and advances and provide other financial and credit accommodations to Venturi in order to provide funds to be used by Venturi to pay off the Compass Bank Debt and for its general operating, working capital and other business purposes in the ordinary course of Venturi's business, which will benefit Venturi, its estate and creditors.

H. DIP Lenders are willing to make such loans and advances and provide such other financial and credit accommodations on a secured basis up to \$110,000 as more particularly described herein and subject to the terms and conditions contained herein. The ability of Venturi to continue its business and remain a viable operating entity depends upon Venturi obtaining such financing from DIP Lenders.

I. The relief requested in the Motion is necessary, essential, and appropriate for the continued operation of Venturi's business and the management and preservation of Venturi's assets and properties and is in the best interests of the Venturi, its estates and creditors.

J. Based on the record before the Court, the terms and conditions of the DIP Agreement and this Interim Order are fair and reasonable, were negotiated in good faith and are the best available to the Debtors under present market conditions and the Debtor's financial circumstances. DIP Lenders are extending financing to Venturi in good faith. DIP Lenders are therefore entitled to the benefits of the provision of Section 364(e) of the Bankruptcy Code, and all post-petition loans, advances or other financial and credit accommodations made or provided to Venturi by DIP Lenders as authorized by this Interim Order shall be deemed to have been made in good faith, as that term is defined in Section 364(e) of the Bankruptcy Code.

K. Appropriate notice of the hearing requesting the entry of this Interim Order and the Interim Hearing has been provided.

L. The relief granted by this Court pursuant to this Interim Order is necessary to avoid immediate and irreparable harm and injury to Venturi's estate.

M. Good, adequate and sufficient cause has been shown to justify the granting of the interim relief requested herein, and the immediate entry of this Interim Order.

N. A Committee pursuant to Section 1102 of the Bankruptcy Code has not yet been appointed in these cases.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:

1. The DIP Financing Motion is hereby granted and approved to the extent provided below. This Order shall hereinafter be referred to as the "Interim Order."

2. The DIP Agreement is hereby APPROVED and Venturi is hereby immediately authorized and empowered to borrow and obtain loans, advances and other financial accommodations from DIP Lenders up to the sum of \$110,000, pursuant to the terms of this Interim Order and the terms and conditions set forth in the DIP Agreement.

3. Venturi is authorized and directed to execute, deliver, perform and comply with the terms, conditions and covenants of the DIP Agreement and this Interim Order, together with all related documents, agreements, notes and instruments executed and/or delivered in connection therewith or related thereto as all of the same have been or hereafter may be amended, modified, extended, renewed, restated or replaced (collectively, the "DIP Loan Documents"). Such terms, conditions and covenants shall be sufficient and conclusive evidence of the borrowing and financing arrangements by and between Venturi and DIP Lenders for all purposes, including, without limitation, to the extent applicable, the payment of all principal, interest and other fees and expenses, including reasonable attorneys' fees and legal expenses, as more fully set forth in the DIP Loan Documents. Upon execution and delivery to DIP Lenders, the DIP Loan Documents shall constitute the legal, valid and binding obligations of the Debtor.

5. Pursuant to this Interim Order and the DIP Agreement, to secure the payment and performance of any and all obligations, liabilities and indebtedness of Venturi to DIP Lenders of whatever kind or nature or description, absolute or contingent, now existing or hereafter arising under the DIP Loan Documents and/or this Interim Order, (collectively, the "Obligations"), DIP Lenders shall have and are hereby granted, effective on and after the date of this Interim Order, valid and perfected first priority security interests and liens, superior to all other creditors of Venturi's estate in and upon all of the existing and future assets and properties, both real and personal, of Venturi,

whether acquired prior to, concurrently with, or after the filing of the petition commencing Venturi's Chapter 11 case (collectively, the "Collateral"), including, without limitation, and by way of general description:

- (a) Accounts;
- (b) Inventory;
- (c) Borrowers' Books;
- (d) Equipment;
- (e) General Intangibles, including without limitation intellectual property rights;
- (f) Negotiable Collateral;
- (g) Real Property Collateral (including any Leasehold Property);
- (h) all collections and any other money, cash and cash collateral or other assets

of Venturi that now or hereafter come into possession, custody, or control of DIP Lenders; and

(j) all proceeds and products, whether tangible or intangible, of any of the foregoing, including, without limitation, insurance proceeds and any claims against third parties for loss or damage to or destruction of any or all of the foregoing. Notwithstanding the foregoing, the DIP Lenders shall receive a second lien, junior to the lien of Compass Bank, on the accounts receivable.

8. DIP Lenders shall have all rights and remedies with respect to Venturi, the Obligations and the Collateral as are set forth in the DIP Loan Documents and this Interim Order.

9. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection and validity of all of the security interests, mortgages, deeds of trust, collateral assignment of leases, leasehold mortgages, and liens upon the property of Venturi's estate granted to DIP

Lenders as set forth herein and in the DIP Loan Documents, without the necessity of filing, recording or serving any financing statements, mortgages, or other documents which may otherwise be required under federal or state law in any jurisdiction or the taking of any other action to validate or perfect the security interests and liens granted to DIP Lenders, in this Interim Order and the DIP Loan Documents. Such security interests, mortgages and liens granted to DIP Lenders shall be prior and senior to all security interests, liens, claims and encumbrances of all other creditors in and to such property, except to the extent provided in the DIP Loan Documents and except as to the accounts receivable in which the DIP Lenders will receive a second lien, junior to Compass Bank. If DIP Lenders shall, in their discretion, elect for any reason to file any such financing statements, mortgages or other documents with respect to such security interests and liens, Venturi is authorized and directed to execute, or cause to be executed, all such financing statements, mortgages or other documents upon DIP Lenders' request and the filing, recording or service thereof (as the case may be) of such financing statements, mortgages or similar documents shall be deemed to have been made at the time of and on the Petition Date. DIP Lenders may, in their discretion, file a certified copy of this Interim Order in any filing or recording office in any county or other jurisdiction in which the Venturi has an interest in real or personal property.

10. Venturi is hereby authorized and directed to perform all acts, and execute and comply with the terms of such other documents, instruments, and agreements in addition to the above DIP Loan Documents as DIP Lenders may reasonably require as evidence of and for the protection of the Obligations, the Collateral or which may be otherwise deemed necessary by DIP Lenders to effectuate the terms and conditions of this Interim Order and the DIP Loan Documents, each of such

documents, instruments, and agreements being included in the definition of "Loan Documents" contained herein.

11. Pursuant to Sections 363(b)(1) and 364(c)(2) of the Bankruptcy Code, any provisions in any of the leasehold properties, that require the consent or approval of one or more of the Venturi's landlords in order for Venturi to pledge or mortgage such leasehold interest, are and shall be deemed to be inconsistent with the provisions of the Bankruptcy Code and are and shall have no force and effect with respect to the transactions granting the liens, security interests, mortgages and/or deeds of trust by Venturi in favor of DIP Lenders in accordance with the terms of the DIP Loan Agreement and this Interim Order.

12. Venturi is authorized and directed, without further order of this Court, to pay or reimburse DIP Lenders for all present and future reasonable costs and expenses, including attorneys' fees and legal expenses, paid or incurred by DIP Lenders to effectuate the financing transactions as provided in this Interim Order and the DIP Loan Documents, all of which unpaid fees, commissions, costs and expenses shall be and are included as part of the principal amount of the Obligations, and shall be secured by the Collateral.

13. Except as it relates to DIP Lenders' rights under paragraph 17 below, the automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit DIP Lenders to implement the terms and conditions of the DIP Loan Documents and the provisions of this Interim Order.

14. As additional security for all obligations of Venturi to DIP Lenders now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents, or otherwise, and in addition to the foregoing, DIP Lenders are granted an allowed super-priority administrative claim in

accordance with Section 364(c)(1) of the Bankruptcy Code having priority in right of payment over any and all other obligations, liabilities and indebtedness of Venturi, now in existence or hereafter incurred by Venturi and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, Sections 105, 326, 328, 330, 331, 503(b), 506(c) 507(a), 507(b) or 726 of the Bankruptcy Code and shall at all times be senior to the rights of the Debtor or any successor trustee in this or any subsequent bankruptcy case.

15. If upon the conclusion of the liquidation of the assets and properties of Venturi's estate and the application of the proceeds thereof as provided in this Interim Order and the Bankruptcy Code, there are insufficient assets to satisfy the fees of the Professionals (as hereinafter defined), DIP Lenders' security interests in and liens upon any of the Collateral shall be subordinate only to (a) the fees and expenses of the Clerk of this Court or the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a), and (b) the outstanding and unpaid fees and expenses of the professionals retained by Order of this Court pursuant to Sections 327 and 1103 of the Bankruptcy Code ("Professionals"), which fees have been awarded or allowed by order of this Court, in accordance with Sections 326, 330 and 331 of the Bankruptcy Code, in connection with services rendered after the Petition Date (collectively, the "Allowed Professional Fees"), in an amount not to exceed \$100,000 in the aggregate (collectively, the "Professional Fee Carve-Out"). All fees, expenses and claims paid to Professionals (excluding the application of any pre-petition retainers) after the occurrence of a declared Event of Default shall be applied to and reduce the available Professional Fee Carve-Out. Notwithstanding the foregoing, the Professional Fee Carve-Out cannot be used for the payment or reimbursement of any fees or disbursements of Venturi or the Committee incurred in connection with the assertion or joinder in any claim, counter-claim, action, proceeding, application,

motion, objection, defense or other contested matter, the purpose of which is to seek any order, judgment, determination or similar relief: (i) invalidating, setting aside, avoiding, subordinating, in whole or in part, the Obligations or the liens and security interests in any of the Collateral granted in favor of DIP Lenders, or (ii) preventing, hindering or delaying, whether directly or indirectly, DIP Lenders' assertion or enforcement of its liens or realization upon any Collateral.

16. Except as expressly permitted herein, no costs or expenses of administration, which have or may be incurred in Venturi's Chapter 11 case, any conversion or dismissal of any of Venturi's Chapter 11 case pursuant to Section 1112 of the Bankruptcy Code, or in any future proceedings or cases related thereto, shall be charged against DIP Lenders pursuant to Section 506(c) of the Bankruptcy Code, without the prior written consent of DIP Lenders, and no such consent shall be implied from any other action, inaction or acquiescence by DIP Lenders.

17. In the event of the occurrence of any of the following: (a) the failure of the Venturi to perform in any material respect any of its obligations pursuant to this Interim Order (as set forth in the Loan Agreement) or (b) the occurrence of any "Event of Default" under the DIP Agreement, including the failure to comply with or perform any of the terms and conditions of the DIP Loan Agreement or the other Loan Documents (the foregoing being referred to in this Interim Order, individually, as an "Event of Default" and collectively, as "Events of Default"), then (unless such Event of Default is specifically waived in writing by DIP Lenders, which waiver shall not be implied from any other action, inaction or acquiescence by DIP Lenders) and upon or after the occurrence of any of the foregoing which is continuing, and at all times thereafter, after giving fifteen (15) Business Days notice in writing, served by overnight delivery service or facsimile to Venturi, Venturi's counsel, counsel to the Committee, a Trustee, if appointed, and the Office of the United

States Trustee: all of the Obligations shall become immediately due and payable, however, the automatic stay provided for pursuant to Section 362 of the Bankruptcy Code and any other restrictions on the enforcement by DIP Lenders of their liens and security interests or any other rights under the Loan Documents granted to or for the benefit of Lenders or pursuant to this Interim Order shall remain in effect unless and/or until vacated or modified by separate order of the Court after notice and hearing. DIP Lenders shall not have any obligation to lend or advance any additional funds to Venturi, or provide other financial accommodations to Venturi upon or after the occurrence of an Event of Default.

18. Until all of the Obligations have been indefeasibly paid and satisfied in full and without further order of the Court: (a) no other party shall foreclose or otherwise enforce any junior lien or other right such other party may have in and to any property of Venturi's estate upon which DIP Lenders hold or asserts a lien or security interest, (b) upon and after the occurrence of an Event of Default, and subject to DIP Lenders being granted relief from the automatic stay, DIP Lenders, in their discretion, in connection with a liquidation of any of the Collateral, may (i) enter upon, occupy and use any real property, fixtures and equipment owned or leased by Venturi, and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents or any other assets of Venturi, which are owned by or subject to a lien of any third party and which are used by Venturi in its business, all without interference from the respective lessors, licensors or other third parties for the purpose of conducting liquidation sales of Venturi's assets and properties; provided, that, DIP Lenders shall be responsible for the payment of the monthly rent and/or other charges (taxes, insurance, common area charges and utilities), rentals, royalties due such lessor or licensor for rentals solely for the period of

time that DIP Lenders actually occupy or use the leased premises, the leased equipment or the intellectual property.

19. Upon the payment in full of all Obligations owed to DIP Lenders and termination of the rights and obligations arising under the DIP Agreement and this Interim Order, each of DIP Lenders and Venturi shall be released from any and all obligations, liabilities, actions, duties, responsibilities and causes of action with respect to one another pursuant to the terms of this Interim Order and/or the DIP Loan Agreement.

~~20. All post-petition loans, advances and other financial accommodations under the DIP Loan Agreement are made in reliance on this Interim Order and Venturi shall not seek at any time in Venturi's Chapter 11 case any order which (a) authorizes the use of cash collateral of Venturi in which DIP Lenders have an interest, (b) authorizes the sale, lease, or other disposition of property of Venturi's estate in which DIP Lenders have a lien or security interest, except as expressly permitted hereunder, (c) authorizes the obtaining of credit or the incurring of indebtedness under Section 364(d) of the Bankruptcy Code, (d) grants any other rights against the Venturi and/or its estate secured by a lien or security interest, which is equal or senior to the liens or security interests in the Collateral granted to DIP Lenders, or which, is entitled to priority administrative claim status which is equal or superior to that granted to DIP Lenders herein, (e) seeks an Order converting the cases to cases under Chapter 7 of the Bankruptcy Code, or (f) seeks an order dismissing any of the cases; unless, in each instance (i) DIP Lenders shall have given their express prior written consent thereto, no such consent being implied from any other action, inaction or acquiescence by DIP Lenders, or (ii) such other order requires that the Obligations shall first be indefeasibly paid in full.~~

This paragraph deleted from interim order by court without prejudice to inclusion in whole or in part in final order. (We)

21. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order, which may be entered (a) converting Venturi's Chapter 11 case to a Chapter 7 case, (b) confirming or consummating any plan of reorganization of Venturi, or (c) dismissing the Venturi's Chapter 11 Case or any subsequent case pursuant to Sections 303, 305 or 1112 of the Bankruptcy Code, and the terms and provisions of this Interim Order as well as the priorities in payment, liens, and security interests granted pursuant to this Interim Order and the Loan Documents shall continue in this or any superseding case under the Bankruptcy Code, and such priorities in payment, liens and security interests shall maintain their priority as provided by this Interim Order until all Obligations are indefeasibly paid and satisfied in full.

22. The provisions of this Interim Order shall inure to the benefit of Venturi and DIP Lenders and shall be binding upon Venturi and DIP Lenders and their respective successors and assigns, including any Trustee or other fiduciary hereafter appointed as a legal representative of Venturi or with respect to property of the Venturi's estate, whether under Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case, and shall also be binding upon all creditors of Venturi and other parties in interest.

23. Consistent with Sections 364(e) of the Bankruptcy Code, if any or all of the provisions of this Interim Order are hereafter modified, vacated or stayed, such modification, vacation or stay shall not affect (a) the validity of any obligation, indebtedness or liability incurred by Venturi to DIP Lenders prior to the effective date of such modification, vacation or stay, or (b) the validity or enforceability of any security interest, lien, or priority authorized or created hereunder or pursuant to the DIP Loan Documents. Such indebtedness, obligations or liabilities incurred by Venturi to Lenders prior to the effective date of such modification, vacation or stay shall be governed in all

respects by the original provisions of this Interim Order, and DIP Lenders shall be entitled to all the rights, remedies, privileges and benefits granted herein and pursuant to the Loan Documents, as applicable, with respect to all such indebtedness, obligations or liabilities. All Loans and Advances made pursuant to the DIP Agreement are made in reliance upon this Interim Order, and, therefore the indebtedness resulting from such Loans and Advances prior to the effective date of any stay, modification or vacatur of this Interim Order cannot be (x) subordinated, (y) lose its priority or superpriority administrative expense status, or (z) be deprived of the benefit of the first priority liens and security interests granted in favor of DIP Lenders.

24. Venturi irrevocably waives any right to seek any modifications or extensions of this Interim Order without the prior written consent of DIP Lenders, and no such consent shall be implied by any other action, inaction or acquiescence by DIP Lenders.

25. Promptly after the entry of this Order, Venturi (a) shall mail, by first class mail, a copy of this Order which includes the notice of the Final Hearing hereon to (i) Office of the United States Trustee, (ii) DIP Lenders and their attorneys, (iii) Counsel for any official committee, (iv) all other creditors known to Venturi who may have liens against any of the Venturi's assets, (v) the United States Internal Revenue Service, (vi) Venturi's twenty (20) largest unsecured creditors, (vii) all state taxing authorities responsible for collecting sales taxes, ad valorem taxes and property taxes and (xiii) all parties in interest that have filed notices of appearance in these Chapter 11 cases; and (b) shall file a certificate of service regarding same with the Clerk of the Court. If any party in interest shall have an objection to any of the provisions of this Order, such party shall be authorized to assert such objection at the Final Hearing provided that a written statement setting forth the basis for such objection is filed with the Court and concurrently served upon Sheinfeld, Maley & Kay, 1001

Fannin, Suite 3700, Houston, Texas 77002-6797, Attention Edward L. Ripley, Esq. and Gardere & Wynne, LLP, 3000 Thanksgiving Tower, 1601 Elm Street, Dallas, Texas 75201-4761, Attention Holland O'Neil, Esq.; so that such Objections are received on or before 4:00 p.m. on February 23, 2001. Unless an objecting party shall be and appear at the Final Hearing to assert the basis for such objection before the Court, such objection shall be deemed to have been waived and abandoned.

26. The Final Hearing shall be held at 10:30 o'clock AM on February 28, 2001, if no objection to the Motion or this Interim Order is timely filed and asserted at the Final Hearing, then this Interim Order shall continue in effect in accordance with its terms, subject to such modifications as the Court may make at the Final Hearing and that are acceptable to DIP Lenders.

Dated: Houston, Texas

February 14, 2000


UNITED STATES BANKRUPTCY JUDGE